IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1907 OF 2006

State of Maharashtra ...Petitioner

Vs.

Shri Rajesh Jaysinghlal Shah & Ors. ...Respondents

Shri S.R.Shinde, A.P.P. for the Petitioner-State.
None appears for the Respondents.

CORAM : A. S. OKA, J.
DATE : SEPTEMBER 18, 2006.

P.C.:

1. Heard the learned A.P.P. for the State. By this Writ Petition the Petitioner-State has taken exception to the judgment and order dated 03rd January, 2006 passed by the learned Special Judge (MCOC) Thane. The Respondents are arraigned as accused in an offence punishable under section 363, 342, 384, 392, 464, 465, 504, 34 of the Indian Penal Code read with 3(1)Iii), 3(2) and 3(4) of the MCOC Act. There were four accused persons. By the impugned order dated 03th January, 2006 the learned Special Judge considered the prayer made by the prosecution for grant of police custody. The learned Special Judge granted police custody only of the accused No.1 Ravindra. So far as present Respondents are concerned, the learned Judge declined to grant police custody and remanded them to judicial

custody.

2. The learned A.P.P. pointed out the gravity of allegations made against the Respondents herein and submitted that on the date on which the Respondents were produced before the Special Judge, this was a fit case for grant of police custody to facilitate the police to make proper investigation. He submitted that the learned Special Judge has committed gross error by not granting police custody. The learned A.P.P. fairly pointed out that later on, the learned Special Judge by order dated 21st January, 2006 granted bail in favour of the Respondents. He pointed out that an Application was made for cancellation of the bail by the Petitioner in this court which has been rejected by a learned Judge of this court by order dated 25th August, 2006.

3. I have considered the submissions. Considering the nature of the prosecution case and allegations against the Respondents, prima facie, I find substance in the submissions made by the learned A.P.P. When the Respondents were produced for the first time before the learned Special Judge on 03rd January, 2006, the learned Special Judge ought to have acceded to the

request of the prosecution for grant of police custody.

4. As stated earlier, subsequently the learned Special Judge enlarged the Respondents on bail and the prayer made by the Petitioner for cancellation of the bail has been rejected by this Court. It is too late in the day now to interfere with the impugned order in view of the subsequent events which have been fairly pointed out by the learned A.P.P. Only on account of passage of time and subsequent events I am not interfering with the impugned order.

5. Subject to what is stated above, Writ Petition is rejected.

JUDGE